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September 5, 2003

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

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SEP - 5 2003

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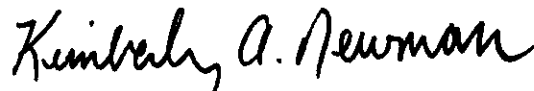
Re: **WC Docket No. 02-359**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Ms. Dortch:

Enclosed for filing in the above-captioned proceeding are an original and four copies of Verizon's Answer to the Petition of Cavalier Telephone, L.L.C. Pursuant to paragraph H(3) of the August 25, 2003 Procedural Order issued in this case, I have enclosed an additional eight copies for the arbitrator, William Maher. Thank you.

Sincerely,

  
Kimberly A. Newman  
of O'Melveny & Myers LLP

cc: William Maher, Wireline Bureau  
Stephen T. Perkins, Cavalier Telephone, LLC  
Marlene E. Shoemaker, Cole, Raywid & Braverman, LLP  
Richard U. Stubbs, Cavalier Telephone Mid-Atlantic, LLC  
Martin W. Clift, Jr., Cavalier Telephone, LLC

Enclosures

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Date

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Before The  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

**RECEIVED**

SEP - 5 2003

In the Matter of )  
 )  
Petition of Cavalier Telephone, LLC )  
Pursuant to Section 252(e)(5) of the )  
Communications Act for Preemption )  
of the Jurisdiction of the Virginia State )  
Corporation Commission Regarding )  
Interconnection Disputes with Verizon )  
Virginia, Inc. and for Arbitration )

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

WC Docket No. 02-359

**ANSWER OF VERIZON VIRGINIA INC TO PETITION  
OF CAVALIER TELEPHONE LLC**

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September 5, 2003

Cavalier Telephone, LLC (“Cavalier”) and Verizon Virginia Inc. (“Verizon”) have successfully resolved a wide array of complex interconnection issues. As part of these resolutions, the parties agreed to use the agreement between Verizon and AT&T (“AT&T Agreement”) resulting from the FCC’s Wireline Competition Bureau’s (the “Bureau”) June 17, 2002 Order (“*Virginia Arbitration Order*”)<sup>1</sup> as the starting point for their negotiations, and also agreed upon the list of issues that would be presented to the Bureau in this proceeding. However, the parties’ proposals to resolve the remaining disputes differ substantially.

Verizon’s proposal (“Verizon’s Proposed Agreement”) is largely modeled on the AT&T Agreement, with a few modifications to reflect developments since positions were filed in those proceedings. Where possible, Verizon proposals also incorporate industry standards and the results of generic state regulatory proceedings governing all carriers in Virginia. Verizon has also worked to modify its proposals on the disputed issues to conform to the recent *Triennial Review Order*.<sup>2</sup>

By contrast, Cavalier’s proposals contain numerous unexplained departures from the terms of the AT&T Agreement and decisions of the of the Federal Communications Commission (“Commission”) and the Virginia State Corporation Commission (“Virginia SCC”), and seek to impose new requirements on Verizon that are unfair, inefficient, and far beyond what is required by law. For example, Cavalier asks the bureau to impose financial penalties that duplicate the remedies in existing performance assurance plans. Cavalier also proposes onerous new procedures relating to “hot cuts,” dark fiber, pole attachments, and directory listings, even

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<sup>1</sup> Full citations to all authorities cited in Verizon’s Answer are provided in Table 2 of Exhibit A.

<sup>2</sup> Given the length and complexity of the Triennial Review Order, it likely affects other sections of the contract that are not directly related to disputed issues. The parties are working to identify the other affected sections and will attempt to negotiate changes to those sections of the Agreement in order to comply with the Triennial Review Order. If the parties are not able to reach an agreement on those additional changes, Verizon will promptly notify the Bureau.

though the Commission has already found these procedures to be consistent with the law.

Many of Cavalier's issues do not even belong in this proceeding. These include billing issues that the Bureau has previously found are more appropriately addressed by the industry standards organization, the Ordering and Billing Forum. Two other issues – concerning E-911 service, and special access migration to UNEs – affect carriers across the state and should be resolved in generic proceedings before the Virginia SCC where all affected parties can have a say. And, Cavalier asks the Bureau to set rates for intrastate services Cavalier provides to Verizon, even though the Bureau has determined that jurisdiction to set such rates lies with the Virginia SCC and not the Bureau.

The Bureau should reject Cavalier's proposals and adopt Verizon's contract language.

## **I. ATTACHMENTS**

Attached to this Answer and incorporated herein are the following Exhibits:

1. **Exhibit A:** Response of Verizon to List of Unresolved Issues Submitted by Cavalier (including a list of the persons upon whom Verizon intends to rely to support its positions, a list of resolved issues, and Verizon's Statement of Relevant Authority);
2. **Exhibit B:** Verizon's Supplemental Statement of Unresolved Issues; and
3. **Exhibit C:** Verizon's Proposed Agreement.

## II. CONCLUSION

For the reasons stated here and in Exhibit A and B, the Bureau should order the parties to adopt Verizon's proposed language on the outstanding arbitration issues and should reject Cavalier's proposed alternative language.

DATED: September 5, 2003.

Michael E. Glover  
Of Counsel  
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Respectfully submitted,



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## CERTIFICATE OF SERVICE

I certify that on the 5th day of September, 2003, the Answer of Verizon Virginia, Inc. to Petition of Cavalier Telephone LLC in the above-captioned proceeding was served on the following parties:

### **Via Overnight Delivery and Electronic Mail:**

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### **Via Electronic Mail:**

Ms. Terri Natoli (tnatoli@fcc.gov)  
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Mr. Richard Lerner (rlerner@fcc.gov)  
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Ms. Margaret Dailey (mdailey@fcc.gov)

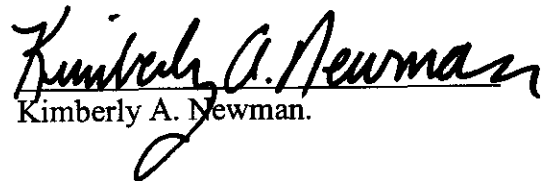
  
Kimberly A. Newman.

Exhibit A

**EXHIBIT A**

**EXHIBIT A TO VERIZON'S ANSWER TO THE  
PETITION OF CAVALIER TELEPHONE, LLC**

Before The  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of Cavalier Telephone, LLC	)	
Pursuant to Section 252(e)(5) of the	)	WC Docket No. 02-359
Communications Act for Preemption	)	
of the Jurisdiction of the Virginia State	)	
Corporation Commission Regarding	)	
Interconnection Disputes with Verizon	)	
Virginia, Inc. and for Arbitration	)	

**RESPONSE OF VERIZON VIRGINIA INC. TO LIST OF UNRESOLVED ISSUES  
SUBMITTED BY CAVALIER TELEPHONE, LLC**



**Issue C2: Should Verizon be required to compensate Cavalier for out-of-pocket expenses incurred in response to Verizon network rearrangements (such as tandem re-homing)? (§ 9.6).**

**Cavalier's Position<sup>1</sup>:**

Cavalier believes that Verizon should compensate Cavalier for Cavalier's out-of-pocket expenses incurred when Verizon initiates network rearrangements, such as tandem re-homing, that are intended to benefit Verizon.

**Verizon's Position:**

Cavalier erroneously suggests that Verizon has asked Cavalier to pay Verizon's network rearrangement costs.<sup>2</sup> In fact, Cavalier's Proposed Section 9.6 would require Verizon to pay for Cavalier's own network rearrangements whenever they relate in some way to changes that Verizon has to make to its own network, such as the installation of new tandems, in response to growing or changing demand. Cavalier's proposed language would inappropriately shift its costs of interconnection to Verizon, and should therefore be rejected.

As telecommunications traffic grows and new technology is introduced, Verizon needs to expand and rearrange its network to provide additional transport and switching capacity in order to provide trunks for other carriers to carry additional traffic. The Bureau has acknowledged Verizon's need to add trunk groups and facilities in order to prevent trunk blockage.<sup>3</sup> Sometimes, these network additions require all carriers, including CLECs like Cavalier, to make changes in their own networks. Such network rearrangements are a cost of doing business, and

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<sup>1</sup> Throughout this exhibit, the section titled "Cavalier's Position" is Cavalier's statement of the issue, taken from Cavalier's Petition. Verizon disagrees with many of these characterizations, but includes Cavalier's statements for the reader's convenience.

<sup>2</sup> Cavalier Exhibit A at 1.

<sup>3</sup> *Virginia Arbitration Order* ¶ 155 ("WorldCom has failed to demonstrate that Verizon's engineers lack the ability or incentive to determine when trunk groups or facilities should be added so as to continue to meet blocking standards. Moreover, as mentioned above, Verizon reports its trunk blockage performance, and if it does not meet a certain level of performance, payments may ensue."); ¶ 156 ("The issue before us is, once a facility is subject to unbundling, what steps Verizon must take to augment network capacity and we find that Verizon's approach addresses this issue in a reasonable manner").

Verizon's longstanding arrangement with all CLECs is that each carrier bears the cost of rearranging its own network associated with establishing additional tandem switches. None of the carriers in the *Virginia Arbitration* proceeding even questioned this practice.

Cavalier complains that network rearrangements such as "tandem re-homing" are intended to benefit Verizon, but this is not the case. Re-homing occurs when a Verizon tandem switch is "exhausted," that is, no more capacity can be added because of trunk growth from all carriers, including interconnecting CLECs. When a Verizon tandem switch is exhausted, Verizon must add an additional tandem switch to serve the increased carrier demands, and all carriers, including CLECs, who interconnect at the first tandem, will then need to "re-home" trunks to the new tandem to make and receive calls through it. Clearly, these rearrangements benefit all carriers.

In any event, Cavalier's costs related to a tandem rehomeing should not be significant. Under the network architecture arrangement negotiated by the parties, Cavalier exchanges the bulk of its traffic directly through end-offices, not tandem offices.<sup>4</sup> Traffic exchanged directly through end-offices is not affected by tandem rehomeing. For the balance of Cavalier's traffic, Verizon offers Cavalier the option of connecting to all of Verizon's tandems through a single point in the LATA.<sup>5</sup> Under this arrangement, Cavalier would only bear costs for transporting local traffic between its switch and the single point of interconnection – costs that are clearly Cavalier's responsibility – while Verizon would be responsible for the costs of transporting local traffic between the single point of interconnection and the new tandem.

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<sup>4</sup> Verizon's Proposed Agreement Schedule 4.2.7

<sup>5</sup> Verizon's Proposed Agreement § 4.1.1.

Even if Cavalier's costs were not so limited, however, no state has ever required Verizon to subsidize network rearrangement costs for CLECs, and the Bureau should not require Verizon to do so in Virginia. For these reasons, the Bureau should reject Cavalier's proposed Section 9.6.

**Relevant Authority:**

**Virginia Arbitration Order**

**Issue C3: Should meet-point billing be improved as set forth in Cavalier's Virginia arbitration petition? (§§ 1.12(b), 1.46, 1.48, 1.62(a), 1.76(a), 1.87, 5.6.1, 5.6.6, 5.6.6.1, 5.6.6.2, 6.3.9, and 7.2.2)**

**Cavalier's Position:**

Cavalier believes that Verizon's meet-point billing procedures need to be revised so that Cavalier receives sufficient information to bill the appropriate originating or transiting party who sent it traffic.

**Verizon's Position:**

This issue involves several different contract provisions that relate to a call scenario where a carrier (other than Cavalier or Verizon) originates a call and sends it to a Verizon tandem, which in turn sends the call to Cavalier for termination. In this case, the originating carrier is supposed to pass billing information to Verizon. Verizon, in turn, records and passes the information it receives from the originating carrier to Cavalier, and Cavalier can use this information to bill the originating carrier for its services. The transit services that Verizon provides in this arrangement are not required by the Act.<sup>6</sup> Instead, Verizon makes these services available voluntarily in an effort to accommodate its wholesale customers.

Verizon's proposed contract language requires Verizon to provide information to Cavalier consistent with guidelines set by the industry's Ordering and Billing Forum ("Industry Guidelines"). Cavalier does not oppose Verizon's language, but in addition, proposes that Verizon must obtain more information from the originating carrier than Industry Guidelines require, and that Verizon must pay Cavalier for its terminating services if Cavalier does not receive its desired information, even if the originating carrier did not provide that information to Verizon in the first place. Verizon's proposed language should be approved, and Cavalier's language should not be included in the Interconnection Agreement.

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<sup>6</sup> *Virginia Arbitration Order* ¶ 119 (refusing to impose obligation on Verizon to provide transit services).

The Bureau recognized in the *Virginia Arbitration Order* that Verizon is not required “to serve as a billing intermediary between WorldCom and third-party carriers with whom it exchanges traffic transiting Verizon’s network.”<sup>7</sup> Yet, Cavalier proposes to force Verizon into just this intermediary role and, in addition, to punish Verizon any time the originating carrier fails to provide Verizon with all the information that Cavalier wants. Since Verizon does not control the accuracy or completeness of this information, it makes no sense to hold Verizon liable when that information is deficient.

Consistent with the Bureau’s rulings in the *Virginia Arbitration Order*, Verizon’s proposed language (in section 6.3.1) requires it to follow procedures for recording billing data set by the Ordering and Billing Forum, except as specifically modified in the contract or applicable tariffs. Section 6.3.7, likewise, embraces the Ordering and Billing Forum guidelines for exchanges of billing information among carriers. These sections are identical to the provisions in the AT&T Agreement resulting from the *Virginia Arbitration Order*. In approving this language, the Bureau said:

AT&T has neither disputed Verizon’s assertion that it is contractually committed to follow the OBF guidelines nor explained why it requires additional billing information beyond that already agreed to in the contract. We find that Verizon’s concerns about having to juggle varying degrees of call detail for multiple and separate interconnection agreements are legitimate and that it is in the interest of all carriers to be able to rely on “an industry forum that ensures carriers exchanging information can process, exchange and read the same records.”<sup>8</sup>

Verizon also proposes, in Section 7.2.2, that “[i]n all cases” involving transit traffic, both parties “shall follow ... any applicable industry guidelines with respect to any exchange of records between the Parties.”

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<sup>7</sup> *Virginia Arbitration Order* ¶ 119.

<sup>8</sup> *Virginia Arbitration Order* ¶ 628 (citations omitted).

Verizon's proposal to rely on uniform Industry Guidelines is fair to Cavalier (and all other CLECs) and efficient for Verizon. Cavalier is not disadvantaged – on the contrary, Verizon makes information available to Cavalier in the same way Verizon makes information available to all other CLECs in Virginia, and hundreds of other carriers nationwide. The Industry Guidelines continue to be refined and improved as the industry evolves. Cavalier has the option of participating in that process. Verizon, with over 3600 interconnection agreements nationwide, must be able to rely upon a uniform set of information requirements. This result is also efficient for the industry, as it allows many carriers to process, exchange, and read the same records.

Although Cavalier does not object to any of Verizon's proposed contract language discussed above, Cavalier has two sets of proposed language that go beyond what is required by the Industry Guidelines. First, Cavalier imposes additional billing information requirements on Verizon. Specifically, Cavalier proposes in Sections 5.6.6.1 and 5.6.6.2 that if Cavalier does not receive its designated information (defined in Section 1) for any calls that it terminates, Verizon (instead of the originating carrier) should pay Cavalier's terminating charges for those calls. Directing Verizon to provide this additional information would require Verizon to "juggle varying degrees of call detail for multiple and separate interconnection agreements" – which the Bureau has already deemed too onerous an obligation.<sup>9</sup> And, as noted above, it is unfair to punish Verizon for deficiencies in information that is generated by the originating carrier.

Second, Cavalier proposes in Section 6.3.9 to change the current process of putting billing data on billing tapes. Instead, Cavalier would require Verizon to transmit billing data exclusively in SS7 signaling streams. These Cavalier proposals would effectively gut the

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<sup>9</sup> *Virginia Arbitration Order* ¶ 628

Industry Guidelines by encouraging individual carriers to forego the industry forums in favor of targeted relief available in a two-party arbitration.

Permitting Cavalier to impose onerous conditions on transit service, which Verizon is not obligated to provide under the Act,<sup>10</sup> will only discourage Verizon from providing this service in the first place. For these reasons, the Bureau should accept Verizon's proposed Sections 5.6 and 6.3 (which Cavalier does not challenge), and reject Cavalier's proposed Sections 1.12(b), 1.46, 1.48, 1.62(a), 1.87, 5.6.6, 5.6.6.1, 5.6.6.2, and 7.2.2.

**Relevant Authority:**

**Virginia Arbitration Order**

**Access Billing Order**

**MECAB Section 6**

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<sup>10</sup> See note 6, *supra*.

**Issue C4: Should Cavalier be required to pay the unspecified charges of non-parties to the agreement, as determined at the sole discretion of such non-parties? (§§ 7.2.6, 7.2.7)**

**Cavalier's Position:**

Cavalier does not believe that it should be liable for unspecified third-party charges, without limiting the manner in which such charges are assessed and without any reciprocal obligation from Verizon to pay similar third-party charges assessed against Cavalier.

**Verizon's Position:**

This issue involves transit calls that Cavalier originates and then sends to a Verizon tandem, which in turn sends the calls to a third carrier for termination on behalf of Cavalier. If Verizon is billed by the terminating carrier, it should be able to pass these charges on to the originating carrier, Cavalier – the only party with a direct relationship with the customer and therefore the party that is responsible for the charges associated with the customer's calls. Verizon's proposed Section 7.2.6 reflects this principle. Cavalier, however, proposes to amend Section 7.2.6 to limit its liability to terminating charges "properly" imposed, leaving Verizon to pay all other charges.

Verizon offers the following compromise: Verizon is willing to dispute charges from the terminating carrier, provided that Cavalier indemnifies Verizon for any charges that are determined to be legitimate. This alternative enhances Cavalier's administrative efficiency, but without forcing Verizon to pay charges that are Cavalier's responsibility. Given that Verizon is not obligated to transit traffic at all, this proposal is manifestly reasonable.

Cavalier also proposes to amend a number of sections, including Sections 1.87 and 7.2.6, to make the parties' transit obligations "reciprocal," that is, to provide for the possibility that Cavalier might provide transit services to Verizon – something Cavalier does not do today. Verizon agrees with Cavalier's proposal in principle, but proposes to reflect those reciprocal obligations in a single section – Verizon's proposed Section 7.2.7 – rather than in multiple



sections. Transit obligations affect a number of detailed sections, and it is unduly complicated and potentially confusing to make specific changes to all these sections for a service Cavalier has not yet developed.

For all these reasons, the Bureau should adopt Verizon's proposed Sections 7.2.6 and 7.2.7.

**Relevant Authority:**

**Virginia Arbitration Order**

**ISP Remand Order**

**Number Portability Order**

**Access Billing Order**

**Issue C5: Should Verizon be required to render affirmative but reasonably limited assistance to Cavalier in coordinating direct traffic exchange agreements with third parties? (§ 7.2.8)**

**Cavalier's Position:**

Cavalier believes that Verizon should help Cavalier negotiate direct traffic-exchange agreements with third parties, when Verizon is involved through issues such as the payment of reciprocal compensation for transited traffic.

**Verizon's Position:**

Cavalier's language is unnecessary and would impose an undue burden on Verizon. In sum, Cavalier seeks to compel Verizon to assist Cavalier in its negotiations of traffic exchange agreements with third-party carriers. Nothing in the Act requires ILECs to provide such assistance.

Verizon's Proposed Section 7.2.8 provides that Verizon will not hamper any negotiations between Cavalier and carriers for whom Verizon provides transit services. This language allows Cavalier to use its internal data, as well as the billing data it receives from Verizon, to determine its negotiating posture vis-à-vis other carriers.

Cavalier's proposed language in Section 7.2.8 would, however, force Verizon to actively assist Cavalier in its negotiations with third-party carriers. Any time Cavalier wanted to negotiate traffic exchange agreements with any third party with whom Verizon is "materially involved" in providing transit services, Verizon would have to provide timely information, respond to inquiries, and in some cases even participate in Cavalier's negotiations with the third-party carrier. This would be burdensome to Verizon, and much of the information Cavalier wants would be competitively sensitive, so that Verizon would not be able to supply it to Cavalier in any event.

Cavalier has other options. For example, Verizon provides an enormous amount of information to Cavalier through its signaling stream and billing tapes. Nothing prevents Cavalier from investing in resources to analyze these data itself.

Verizon's section 7.2.8 proposes a reasonable balance. Nevertheless, Verizon is willing to begin providing Cavalier the names, addresses and phone numbers of points of contact of carriers with which Cavalier wishes to establish traffic arrangements in Virginia, provided that Verizon has such information in its possession. This proposal provides the "reasonably limited assistance" that Cavalier claims to seek.

**Relevant Authority:**

**None**

**Issue C6: Should Verizon effect appropriate changes to its E911 tariffs and procedures to accommodate the provision of some E911-related services by CLECs such as Cavalier, as set forth in Cavalier's Virginia arbitration petition? (§§ 7.3.9, 7.3.10)**

**Cavalier's Position:**

Cavalier has long been refused payment for E911-related services because of municipal concerns about "double billing," and Cavalier believes that Verizon should be required to cooperate with Cavalier in effecting an arrangement under which Cavalier is properly compensated.

**Verizon's Position:**

The Bureau should reject Cavalier's proposed language. Cavalier proposes that Verizon modify its E911 *retail* tariff, which is not a matter that the Bureau should decide in an arbitration proceeding under Sections 251 and 252 of the Act. The Virginia SCC has already initiated a proceeding to address how parties should tariff retail charges for E911.<sup>11</sup> That proceeding, rather than this arbitration, is the appropriate place for Cavalier's issues to be decided.

Cavalier's changes to Section 7.3.10 would require Verizon to reduce its tariffed retail charges for E911 to reflect functions that Cavalier claims to perform or, in the alternative, to enter into "some other arrangement agreed to by Cavalier and the PSAPs [Public Safety Answering Points] or county or municipal coordinators to the same effect." Cavalier's E911 rates, however, are not connected to Verizon's E911 rates in any way. Verizon's Virginia SCC-approved tariff provides for the recovery of Verizon's fixed costs associated with the network and database costs that it incurs as the administrator of the E911 system. Verizon's fixed costs associated with 911 service do not decrease because a competitor also offers 911 service. Verizon still incurs costs associated with the installation and maintenance of trunks, E911 tandems, and customer information databases. These costs are not customer-specific and do not decrease as customers move to Cavalier or any other CLEC. The fact that Cavalier may incur

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<sup>11</sup> See *Virginia SCC E911 Order*.

similar costs in its provision of E911 service does not affect Verizon's costs. Moreover, Cavalier's recovery of its E911 charges from its retail customers is a matter between Cavalier and those retail customers, and does not involve Verizon. Cavalier's position that the services somehow overlap is wrong, and the Bureau should therefore reject Cavalier's proposed language.

Furthermore, the Bureau should not decide this issue, which relates solely to Verizon's retail 911 tariff, here. Indeed, when Cavalier raised such E911 issues in Verizon's Virginia Section 271 proceeding,<sup>12</sup> the Hearing Examiner explained that Cavalier should raise its concerns in a tariff proceeding addressing the rates, terms and conditions by which Verizon and CLECs provide 911/E911 service, "where all interested parties," including affected municipalities, may participate.<sup>13</sup> As noted, the Virginia SCC has initiated just such a proceeding.<sup>14</sup> The Bureau should reject Cavalier's attempt to bootstrap a retail tariff issue into a section 251/252 arbitration.

Cavalier has not proposed any changes to the agreement's detailed provisions addressing Verizon's wholesale obligations relative to 911/E911 service. Verizon has provided these services to Cavalier for years, and in Verizon's section 271 proceeding in Virginia, the Commission found that Verizon satisfied the checklist requirements for nondiscriminatory access to E911 services and databases.<sup>15</sup> The Bureau should thus adopt Verizon's proposed terms and conditions for 911/E911 and reject Cavalier's.

**Relevant Authority:**

**Virginia Hearing Examiner Report**

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<sup>12</sup>See *Virginia Hearing Examiner Report*

<sup>13</sup> *Id.* at 131.

<sup>14</sup> *Virginia SCC E911 Order*

<sup>15</sup> *Virginia § 271 Order* ¶ 189.

**Virginia SCC E911 Order**

**Virginia § 271 Order**